

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #4)	
CELLULAR GENERAL PARTNERSHIP FOR)	
ISSUANCE OF A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY TO)	
CONSTRUCT A CELLULAR CELL SITE)	CASE NO. 96-039
(COLESBURG) IN RURAL SERVICE AREA 4)	
(HARDIN) OF THE COMMONWEALTH OF)	
KENTUCKY)	

O R D E R

On February 7, 1996, Kentucky RSA #4 Cellular General Partnership filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications facility for Rural Service Area No. 4 ("RSA #4"). RSA No. 4 includes Anderson, Green, Hardin, Larue, Marion, Mercer, Nelson, Spencer, Taylor, and Washington counties. Kentucky RSA #4 Cellular General Partnership has requested authorization to construct a cell site in Hardin County. Kentucky RSA #4 Cellular General Partnership was previously granted authority to operate a cellular radio telecommunications system in RSA No. 4 in Case No. 90-308.¹

By letter received July 17, 1996, Kentucky RSA 4 Cellular General Partnership notified the Commission of a location change for the proposed construction. The

¹ Case No. 90-308, Application of Kentucky RSA #4 Cellular General Partnership for Issuance of a Certificate of Public Convenience and Necessity to Provide Domestic Public Cellular Telecommunications Service to the Public in Rural Service Area #4 (Spencer) of the Commonwealth of Kentucky.

proposed cell site, a 400-foot or less guyed antenna tower, will be located on the Fort Knox Military Reservation in Hardin County, Kentucky ("the Colesburg cell site"). The coordinates for the Colesburg cell site are North Latitude 37° 48' 57" by West Longitude 85° 46' 49".

On January 6, 1997, Kentucky RSA #4 Cellular General Partnership indicated that the proposed tower was moved to the Fort Knox Military Reservation because the Department of the Army had concerns about Army aviation safety at the originally proposed location.

The placement of the tower on property owned by the federal government removes the tower from this Commission's jurisdiction. According to KRS 3.030 entitled "Jurisdiction over military post (Fort Knox) at West Point ceded," the Commonwealth no longer has jurisdiction. KRS 3.030 states:

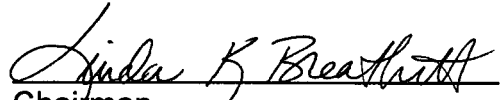
Kentucky cedes to the United States all the rights and jurisdiction which she now possesses over the land and premises in the vicinity of West Point, Kentucky, conveyed or to be conveyed to the United States for the purpose of establishing a permanent camp of instruction and military post, so long as the same shall remain the property of the United States.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that it does not have jurisdiction over the proposed cell tower location.

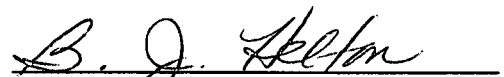
IT IS THEREFORE ORDERED that Kentucky RSA #4 Cellular General Partnership's application for a Certificate of Public Convenience and Necessity to construct the Colesburg cell site is dismissed.

Done at Frankfort, Kentucky, this 18th day of February, 1997,

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director